



19 NOV 2004

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In re Application of BUZZI

U.S. Application No.: 10/009,148

PCT Application No.: PCT/CH00/00265

Int. Filing Date: 12 May 2000

Priority Date Claimed: 15 May 1999

Attorney Docket No.: 6722-01WOUS

For: TEETH CLEANING MEANS

DECISION

This is in response to applicant's "Response to Decision" filed 01 October 2004, which is being treated as a renewed petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 12 May 2000, applicant filed international application PCT/CH00/00265, which claimed priority of an earlier Switzerland application filed 15 May 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 23 November 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 November 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 15 November 2001.

On 08 November 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 February 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed. A copy of this notification is attached to this decision.

On 03 December 2003, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely file a response to the Notification of Missing Requirements.

On 24 February 2004, applicant filed a petition under 37 CFR 1.181.

On 10 August 2004, this Office mailed a decision dismissing the 24 February 2004 petition.

DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has provided the required statement.

With regard to item (3) above, applicant's representative has supplied a docket record which lists responses due to the USPTO on 08 April 2002 for all cases handled by applicant's representative. This docket record illustrates the absence of any listing of a response due to a Notification of Missing Requirements.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 03 December 2003 is hereby VACATED.

A proper response to the Notification of Missing Requirements must be filed within TWO (2) MONTHS from 12 August 2004 (i.e. the date applicant received the Notification of Missing Requirements). Extensions of time are available under 37 CFR 1.136(a).

The application is being forwarded to the DO/EO/US to await applicant's response to the Notification of Missing Requirements.


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